D.B. CIVIL SPECIAL APPEAL (W) NO.623/2007
R.S.E.B. Now AVVNL & Ors. Vs. Shri Navin Kumar & Anr.

Date : 9.7.2007

PRESENT

HON'BLE ACTING CHIEF JUSTICE MR. RAJESH BALIA
HON'BLE MR. JUSTICE MAHESH CHANDRA SHARMA

Mr. Sumeet Mehta for the appellant.
Miss Aruna Negi for the respondents.

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Having heard learned counsel for the appellant and the caveater we are satisfied that there is no merit in this appeal. The petitioner had claimed that he should be paid regular pay scale of L.D.C., duties of which post has been discharged by him from the initial date of appointment until he was screened and regularly appointed on the post and also alternatively he has prayed that after completion of 3 years when the screening was held for regularisation, the services on the post of helper, he may be paid the regular pay scale applicable to the helper w.e.f. 1.4.1984 to 26.8.1984 the date on which he was regularly appointed as L.D.C.

The claim for regularisation of the services of

the petitioner with effect from initial date of appointment was declined in terms of Rajasthan Rationalisation of Appointment and Absorption of Staff in Public Service Act, 1999. However, considering that the workman has actually discharged his duties on the post right from the date of his initial appointment until he was regularly appointed w.e.f. 26.6.1984 as L.D.C. on the principle of equal pay for equal work, the salary payable to LDC was allowed to the workman w.e.f. 1.12.1979.

Aggrieved with the aforesaid award the petitioner-appellant has challenged the award by way of writ petition which has been dismissed by learned Single Judge.

The only contention raised by the learned counsel for the appellant before us is that since the original appointment on daily wages cannot be treated to be regular on the post of L.D.C., he was not entitled for the regular pay scale. It was also urged that his appointment was also as Helper.

Suffice it to say that the learned Labour Court has specifically found that there is no evidence brought on by the present appellant that initial appointment of the petitioner was as a Helper. Morever, it is found from the material before the Tribunal that right from beginning the workman has been required to discharge the work as L.D.C. It is also not in dispute that while working under the appellant employer the workman has been appointed on regular basis as L.D.C. in continuation.

In these circumstances, the award of regular pay scale on the basis of equal pay for equal work cannot be interfered with in exercise of extra-ordinary jurisdiction which results in substantial justice.

The appeal is accordingly dismissed.

[MAHESH CHANDRA SHARMA],J. [RAJESH BALIA], Actg.C.J.

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